[763] 596 428 Usually, feeling his end to be near, the father calls the chief of the umulyango and two friends. He dictates to them his last wishes. The wives of a polygamous man do not hesitate to intrigue in favor of their sons and attempt to circumvent their husband -- or even his brother -- using both their charms and their most subtle arguments. The situation is the same in the case of successive marriages.

It is easily understood that often the other sons, especially if they are of different mothers, feel themselves wronged, rightly or wrongly. [691] But they are given the opportunity of demanding justice from the Mwami, the provincial chief, or the hill chief, according to whether they are sons of umutware w'intebe, of igisonga, or simple Batutsi or Bahutu. These authorities will ratify the choice made by the father or the uncle, or else will decide what other young man will succeed his father.

If there is no male descendant, the high position of head of the family falls on the oldest brother of the deceased. In this case, the heir will be both head of his rugo and of his brother's.

[614] He may also be, at the same time, chief of the umulyango, that is to say, of the clan. This is the umutware w'umulyango (or the umutware rwa bo).

If all the brothers have disappeared, their sons inherit by right of primogeniture. [62]

If the deceased has neither sons, nor brothers, nor nephews in his line, his father will succeed him, or in his absence, the father's brother or one of his male descendants by right of primogeniture.

The Bahutu and the Batwa have their own umutware w'urugo. But they are dependent on the same umulyango chief as the Batutsi.

3. Composition of the Inheritance

428 In addition to the high position of head of the family, the inheritance includes:

1) The heavy cattle
2) The clients (abagaragu)
3) Particularly among the Bahutu, the goats and sheep
4) Landed property (1)
5) Movables, personal property (1)

1. Cf. Property, Property in General, p. 34.

purchase the skins of black and white colobus /monkeys/ (inkomo) which are used to make the court outfit (inkindi) so dear to the court pages (intore).

For a long time the Hamites of Ruanda maintained good neighborly relations with the more humble kings of the Karagwe and Uswi, with whom they exchanged courtesies.

The same did not apply to Urundi, which forms the southern and southeastern border of Ruanda. In spite of their common origins and language, the two lands were frequently at war. Urundi, however, often served as an asylum for people banished from Ruanda.

The Banyarwanda /Banyaruanda/ never stopped trading with the Congo tribes, who supplied them with hoes and rings of vegetable fiber /23/ called ubutega which are worn by the women around their legs as ornaments (1).

> 1. Whether black women dress sumptuously or niggardly, they all show a great love of ornaments (Maurice Delafosse).

This fiber is taken from a small tree (intunda) which grows only in Masisi territory. Its purchase gives rise to constant comings and goings between that territory and Ruanda. The bark of yet another plant called isiha is used to make rings of lesser quality which are not as much in demand.

Butega are looked upon as ornaments and riches, and they are used as currency. The Banyarwanda, lake-shore dwellers and neighbors of Masisi, were assessed in butega as taxpayers. Every year each clan had to supply several thousand to the queen mother, who used them for herself, her /female/ attendants, and her slaves.

It is not unusual to meet Batutsi ladies wearing hundreds of rings around their legs. These ornaments are piled on each other up to the knees, and lend their wearers a slow and very ungraceful gait.

A wealthy woman's wardrobe includes several thousand butega. Their purchase occasions indebtedness which frequently gives rise to lengthy lawsuits and disputes.

784 A young girl may not follow the path trodden by cows while
[842] her betrothal arrangements are being made. She must take another path in order not to risk becoming sterile.

When a hut is finished and covered with thatch, the wife of the hut's owner must bring into it with her own hands the household spatula, which, according to the customs of the land, is her own symbolic weapon and safeguard. The observation of this rite insures her of not being expelled from the hut and of living on good terms with her husband.

To forget one's stick at a neighbor's house is a worrisome thing. It is to be feared that the stick will be used for magic procedures against the owner of the forgotten object.

787 If your heart beats as if it were about to break in the chest, it is a sign that someone is speaking ill of you somewhere.

If your chest feels heavy, if you feel ill in the stomach, it is a sign that your sister-in-law is pregnant and will become a mother.

An itching felt at the spot where a drop of blood was taken to seal a friendship pact is a certain portent of the blood-brother's death.

789 In order to help a litigant's suit along, his relatives wrap a
691 mwishwa stalk around his chair. /415/ During the proceedings of the case, a member of the family sits on the chair and sweeps all around it, as if to ward off an evil spell. For even greater certainty of success, one also places under the chair the whetting stone (ityazo), which is called "obstacle" (ikinanira) in sorcerers' terms. This symbolic act has the function of stripping away all the effectiveness of the other side's testimony and evidence. "Their words will go with the wind" (amagambo yabo azahita nk' umuyaga), as popular belief has it.

[273] The plaintiff, on his part, must abstain from drinking beer made with bananas of the kind called iginyambiba or igihuna. Thanks to such precautions, he will have every chance of success.

784 There also exist taboo plants and shrubs. Mwange (umwange)
824 is a plant with a symbolic and meaningful name derived from a verb (kwanga), which means "to hate, to detest, not to like." Girls must never touch it when gathering dry twigs or dead wood for the hearth, for fear of... remaining spinsters. Old women alone have ceased to fear it and do not hesitate to use it for their cooking needs (1).

696 messenger has been dispatched. In that case the other party travels with the messenger in order to bribe him. It is not uncommon for the messenger to accept large gifts from both parties and then not do anything. The high chiefs use this opportunity to visit their lands. The case is adjourned; new, important circumstances are discovered that have not yet been considered; and the proceedings begin all over again.

691 [282] At the time of my visit in Mulera the legal dispute between the Barashi chief, Lukara lwa Bishingwe, and Luhanga, the client of Nshohozamigo, was in its fourth year. Each year sentence was pronounced; each year the court messenger was sent off; and each year the two parties returned. In the end Musinga grew tired of the whole affair and kept Lukara at court. After Lukara had obtained permission from Musinga to return home, on the pretense of conducting me to Mulera, he decided to resort to the final argument, to warfare. He attacked Luhanga's people and engaged in a skirmish with the column of my expedition colleague, the geologist E.F. Kirschstein, whose presence the Batutsi tried to use for their protection.

In the end, in its seventh year, the dispute was settled in Luhanga's favor when Lukara was obliged to flee from the German sphere of influence for his murder of the missionary, Father Paul Loupias. Later he was captured and hanged.

A considerable number of trials deal with the withdrawing of grants and the practice of blood revenge (kuhora enzigo) for slain clan members.

If A is granted a cow by B, B has a certain power over A. He can exert pressure on A by threatening to take back the cow. If A, however, also gets cows from C, who is more powerful than B, the latter's influence diminishes. In some cases A becomes so dependent on C that B loses his influence and moreover his cattle in favor of C. These property shifts give rise to vastly complicated suits over cattle that last for decades and become more and more complicated by small compromises, the legality of which is later challenged.

691 426 686 In civil cases we find the institution of kugombeka. If A is indebted to B and does not pay him or refuses to return something granted him and now demanded back, A can be distrained. If

debtor A owns something that is being used by C, a cow, for example, then B can bring C a present and, with C's permission, declare the object belonging to A as kugombeka. In this case A loses all rights to the object he has deposited with C until he has settled his debt, and the object is now regarded as B's property. If A is powerful, the kugombeka of his property is declared void. If he is not influential, this becomes a very profitable business. In view of the duration of the suits, C always has the prospect of being able to appropriate the thing that has been put in his charge or at least of using it without incurring obligation. But under the rules of kugombeka he is responsible to B for the object. If he gives it back to its original owner A, he must replace its value to B or [283] owe it to him, and this starts a second suit between B and C which is separate from that between A and B.

If the users of A's property refuse to accept kugombeka, the creditor can only resort to kufatira.

Kufatira is the confiscation of part of the property of an individual whom one wishes to force to defray his debt or to meet his responsibilities. Kufatira is also used to force someone to appear at a trial. The use of force is conceded in the case of kufatira, but otherwise infringement of property rights and the use of violence are basically regarded as punishable offenses.

Kufatira can be used successfully only against weaker debtors. If the debtor is very weak, he can even be plundered and bound with a rope until his family takes mercy on him and ransoms him. If, however, the debtor is powerful, kufatira can have all the consequences of a lost war, and there is no recourse but to make one's concern the concern of stronger protectors.

In cases of theft, the procedure is considerably simpler, and the judge receives no presents.

Evidence. The testimony of witnesses is very important in court trials in Ruanda. The accused has the right to demand witnesses to prove his guilt, but he also has the right to eliminate the testimony of certain witnesses if he has convincing reasons. Such witnesses are, for example, relatives, blood brothers, and clients (bagaragu) of the accuser. The accuser is obliged to comply

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cattle alone? and if so, are they marrying into Tusi families, bridging the social gulf? or are they only marrying into other rich Hutu families, adopting the Tusi standard of wealth? And what is the meaning of the mixed payments in cattle and hoes? Are Tusi marrying into Hutu families, and being expected to utilize the Hutu standard as well as their own? or are wealthy Hutu, again, adopting Tusi standards? It would seem to be almost certain that change of some form or another is going on. The records are not helpful, save for one case where payments of the unusual number of three cows are mentioned as being as in respect of members of the Chief's clan: and another, where a woman's father, suing for payment of bride-wealth of a cow, finds that no cow is available and accepts, *faute de mieux*, 11 hoes—this must surely be a Hutu.

There are seven instances where payment in cash is a constituent of the bride-wealth and one where cash alone is involved. This cash element only appears in the years 1928–30, the last of the series, and is exactly paralleled in the suits for recovery of debts, where hoes are the normal subject-matter in the years 1924–6, are being replaced by cash in 1927, and virtually disappear in the later years. In five of the seven cases it is the hoe which has been replaced by cash in the bride-wealth payment, and that this change may be making marriage more of a commercial transaction, even if it was not before, is instanced by the case already cited, where a father was ready to part with his daughter in return for the extinguishment of a debt of 10*s*. and 6 pots of beer. And one would like to know whether the cattle standard has also been attacked in the case where the large amount of 20*s*. appears.

The function of the perishable article, beer, as an element in bride-wealth, does not appear from the records. There is nothing to show whether its appearance in only one-third of the cases reviewed means that it has not been a constituent on other occasions, and if so, why it is in issue sometimes and not at other times.

Bride-wealth in the possession of a woman's family need not necessarily be maintained intact.

Instances: Where a woman's brother has lost a cow paid in bride-wealth and is brought to Court by her husband, the Court makes no order: it finds that the woman is still with her husband, that no grounds for

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divorce have arisen between the married pair, and that there is therefore no cause of action.

And, a case already cited, a man hears that his wife's brother has sold the cow paid in bride-wealth, and thereupon drives away his wife and sues for his bride-wealth. The sale is admitted, but the plaintiff fails in his suit, as no grounds for divorce have arisen between his wife and himself: he is therefore to take his wife back.

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On the termination of a marriage, bride-wealth, with rare exceptions, is returnable in full: and where cattle are involved, the increase is also to be returned (three cases in the records): but a man who sued for three bulls, the progeny of a cow paid in bride-wealth, was unsuccessful when it was established that the bulls were dead.

Circumstances under which the bride-wealth is not returnable in full are:

(*a*) when the wife has borne children or is pregnant at the time of the dissolution of marriage.

Instances: A claim is made for the repayment of bride-wealth of 4 hoes. Three only are awarded by the Court, as a child has been born of the marriage.

In a claim for repayment of bride-wealth of a cow, 7 hoes, 7 pots of beer and some fat, the Court only awards the cow and the hoes, as the woman was pregnant at the time of divorce.

(*b*) when the wife dies in pregnancy.

In such a case, a woman's father was sued for the return of bride-wealth, but pleaded, to the satisfaction of the Court, that her death in pregnancy amounted to her having been killed by her husband. No bride-wealth was to be repaid.

(*c*) when the wife dies after an illness, unless she has come to her husband ill or otherwise unsound at the time of marriage, or has returned home without cause given by him, and there fallen ill and died.

Instances: A widower sues for the return of his bride-wealth on the ground that the woman was unsound when he married her. Her father shows to the satisfaction of the Court that the husband did not disclose the defect at the time of marriage, and that the woman died at her husband's home: and the widower loses and is further ordered to return the clothes and ornaments of his dead wife to her father.

A man marries but does not build a home and remains at his brother-in-law's. Later, he quarrels with the brother-in-law and removes, with his wife. She falls ill and goes home to her brother, and there dies. The Court decides that her husband has no justification for reclaiming

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his bride-wealth, since his brother-in-law did not take her away, she went home when ill because she had no home. In any case, the Court adds, bride-wealth is not to be returned as a matter of course just because a woman dies. 586 691

In a third case a woman has died after bearing one child; the circumstances of death are not stated. The widower, reclaiming his bride-wealth, a cow, which by increase has become 8 head, in a village meeting, has been awarded 5 head and the woman's father 3. The widower has later taken one of his father-in-law's share to provide milk for the child, and now claims his right to retain it and receive the balance. The Court confirms the decision of the village meeting, on the grounds that although the widower has lost a wife, her father has lost a child.

(*d*) when a husband drives away his wife without due cause, or abandons her.

Instances: A man takes his cow, paid as bride-wealth, away, then drives his wife out of the house, and now reclaims the balance, 11 hoes. He is adjudged to have forfeited these.

A man reclaims 7 hoes, balance of bride-wealth of a cow and 7 hoes, from his brother-in-law, who has taken the woman when ill to a doctor and has not returned her. The husband is found to have seized the opportunity to take back his cow and to have abandoned his wife, and he is held to have no claim to his hoes.

A man claims 6 cows, the increase of one, paid as bride-wealth. It is established that after the woman had borne him 5 children, he emigrated, leaving her, and that she is still unmarried and willing to return to him. He admits in cross-examination that he wants the cattle, not his wife—and loses both.

Bride-wealth is also returnable when a woman, left a widow, declines to remain under the custody of her late husband's heirs, and goes to her relatives. But custody must be claimed at the time of the husband's death: in a case where this was not done, and the woman had gone away and remarried, the new marriage was allowed to stand, subject to the proviso that the child of the marriage would be a member of the family of the first husband when it grew up, if it desired. In one case, a man waives his claim to the bride-wealth in respect of the widow of his dead son, she having returned to her relatives. 587 768 851

On the termination of a marriage, the custody of children is always the right of the husband. If he dies, the right passes to his heirs: there 586 768 851

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586 851 768 is, however, an exception recorded, where, on a man dying leaving only female children, these were taken charge of by the village headman. The right to custody sometimes involves investigation of paternity, the nature of which is fully understood.

[691] *Instances*: A man sues his wife's new husband, after divorce, for payment of bride-wealth or else for custody of a child of which he claims she was pregnant when she left him. A count of months establishes the paternity of the new husband.

The son of a man deceased sues the man to whom the widow has gone, she then having a four-months' old child, for the first offspring of the new union as well as the other child, on the grounds that she was pregnant at the time of her husband's death. The Court finds that no woman has ever been heard of suckling a four months' child and pregnant of another, and therefore awards the eldest child only.

In a third case, it is necessary to establish paternity as between three possible fathers.

[862] An unweaned child will remain with its mother till weaned. If not claimed then, her relatives or new husband may claim recompense for the cost of bringing the child up: in one case a goat is to be paid, in another, half the milk of a cow, and 3 hoes.

768 428 As a corollary to the right to the custody of a child, the heir of a man who has died has the right to the bride-wealth in respect of a girl-child, when the widow has returned to her relatives and the child has not been claimed before she reaches marriageable age, subject to a deduction for the cost of bringing her up.

[691] *Instances*: In the case just cited, the milk and three hoes represented a deduction from the total bride-wealth of a cow and five hoes.

In another case, the woman's relations resist such a claim on the ground that when she left the heir, her son, and went home, he claimed only her clothes but not the child. Their case fails.

In one case, a man lost his reason, and his wife went off to another man with her three children, of whom two were females. This other man married off one child and betrothed the other. Both contracts [681] were dissolved, the man was fined and in addition was made to refund to their father 14 hoes which had been handed over for maintenance of the children.

586 Dissolution of marriage is found to take place on numerous grounds. The records disclose causes of offence by the husband as follows:

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Impotence.
Loss of reason.
Failure to clothe the wife.
Fai[illegible]re to cultivate.
Failure to provide food.
Wandering habits.
Measuring out food to the wife (instead of giving her free access to the store).
Refusal to eat food.
Accusation of witchcraft.
Continued insult and beating.
Removal of bride-wealth from the relations-in-law.

There are three marital causes where dissolution is threatened, one, because the cow paid in bride-wealth has died, in another because it has gone blind, and in a third because it has borne twin-calves: such a cow is taboo for this purpose, presumably on account of the danger of sympathetic influence on the wife—the advent of twins is not hailed with joy, witness a case where a cow is in issue, the fee of a doctor for removing the curse of twins. [845]

Grounds for divorce of the wife include:

Refusal to work and to cook.
Continued sickness.
Desertion, subdivided into cases where she has gone to her relations, and where she has gone off to another man.

Adultery as such is never cited as a reason for divorce. There is but one case of adultery on record in the Court, the offending man being punished and the woman returned to her husband. [837]

It is but rarely that a woman or her relatives come to Court to sue for a divorce. Normally, if she feels that she has reason for dissatisfaction, she returns to the home of her father or brother, whose duty it is to endeavour to reach an amicable settlement. If this is not done, she remains and abides the issue, or, not infrequently, is married to another man, this precipitating proceedings by the husband. But in a fair number of instances, she goes straight off to another man. [691]

The Court will try to compose matters and to maintain the marriage wherever possible.

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Instance: A runaway wife, sued by her husband, complains that he does not give her clothes and is stingy with food to the extent of measuring 691

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it out. The Court awards him his wife on condition of his paying her two barkcloths for clothing, and a sleeping mat.

A man has removed his two cows, paid in bride-wealth, and his wife has gone away and has been married off elsewhere. He may recover his wife by immediate payment of the cows, when the second union will be declared invalid.

A woman has left her husband on account of his cruelty, and her father has married her again. She agrees to return to her husband if he will guarantee to clothe her.

The cases of a husband resuming possession of cattle paid in bride-wealth are fairly frequent, but the marriage is never *ipso facto* dissolved on this account: the position would rather seem to be that the relation of the man and the woman reverts to one of betrothal.

The Court discourages recourse to it when it appears that full recourse to conciliation has not been made or that action is otherwise premature.

Instances: A wife admits running away, and her father admits marrying her to another man. The husband gets his bride-wealth back, but loses his costs because he did not try to arrange matters with his father-in-law before coming to Court.

A woman's father has returned the cow paid in bride-wealth, as being of poor quality, and his daughter has left her husband on this account. He sues for payment of a sound cow and wins, but costs are given against him for his manner of action.

A man sues his father-in-law for taking his daughter away. The reply is that she came home ill, and stayed, with his concurrence, because her husband gave her no clothes. This the husband admits, but costs are given against the father because he took no steps to bring about a reconciliation.

A man claims his wife from his mother-in-law, to whom she has gone. He wins, but loses his costs because he did not ask his mother-in-law for his wife before bringing a case.

A man sues his mother-in-law for marrying off his wife to another man while he was absent in Uganda. It is found that she had merely returned home to await his return, and he loses his costs.

It has been mentioned above that a husband who tries to get rid of his wife without sufficient cause is liable to forfeit part of his bride-wealth. Nor does the runaway wife who cannot back her action by sufficient reason for discontent get any sympathy from the Court.

Instances: A wife has left her husband and maintains that she went because

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her husband gave her no clothes. She is ordered to return to him, as she had made no complaint to her father. 586

A wife who went back to her relatives because her husband walked out of the house, saying it smelt, is ordered to return to him. 691 ●

So with a wife who left her husband on account of his deafness.

And another who said that her husband was impotent, but could not satisfy the Court of this.

Another runaway wife is returned to her husband and told to sue before the Court at a later date if she has any concrete reason for disagreement with him, such as his failure to produce clothes or to work on the land.

The seducer of an unmarried woman is always punished and may have to pay compensation to her father. In one such case compensation is ordered on account of the girl being 'destroyed'. In the case, however, of the man who has enticed away a married woman or has willingly accepted a wife who has deserted her husband, there is no such uniformity of practice, and much depends on the circumstances of the case. Usually the man is punished or at any rate cautioned. 684

Instances: A wife leaves her husband and offers herself to another man. She is returned, much against her will, to her husband, and the third party is fined and informed that he will be imprisoned if he accepts the woman again.

An enticer offers the defence that he is willing to pay bride-wealth to the woman's father. She is returned to her husband, whom the enticer, as well as being fined, has to compensate.

A wife, having run away, is reclaimed by her husband, and the man to whom she has gone is punished.

But in four cases, he is only cautioned.

Sometimes the woman is returned without her unlawful partner being punished.

Instance: A runaway wife, pregnant by another man, is returned to her husband, in spite of her alleging against him that he deprives her of food and clothes, is always wandering, and has accused her of witchcraft. (The Court was probably sceptical of the veracity of so formidable an indictment.) The child, when born, is to belong to the original husband, but there is no further mention of the other man.

On other occasions, presumably when the husband has been at fault, the second partner is allowed to refund the amount of his bride-wealth and to retain the woman as his lawful wife. [586] [587]

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Instances: A man has beaten his wife and driven away her relatives when they came to see him. She leaves him for another man, who is ordered to refund the bride-wealth.

A wife has left her husband and is now pregnant by another man. The husband will be satisfied either with the child or his bride-wealth. The paternity of the second man is established, and bride-wealth is to be paid over.

In several cases a woman's relatives are found to have married her to another man in her husband's absence, or after she has left him and returned home. Here again circumstances determine whether the first or the second union shall be dissolved. In considering these, the voice of the woman is not disregarded, and in one case, after judgement has issued in the original husband's favour, it is amended there and then owing to his wife's refusal to return to him.

586 661 Several marriages are found to be broken up on account of the Chief's seizing cattle paid in bride-wealth.

Instances: A wife goes off to her father's because the Chief has taken the bride-wealth cow.

A man from Urundi pays a cow in bride-wealth, which is seized by the Chief in order to recoup himself after some of his cattle have been stolen by Urundi natives: and the woman's father therefore takes her back.

In a third case, this right or propensity is deliberately made use of by a husband who wishes to shuffle off his wife. He arranges for the Chief to seize the bride-wealth cow with its two calves, and then sends his wife home. But the stratagem fails.

595 578 586 Finally, the existence of polygyny is to be referred to. That it may lead to disharmony in the home appears from two cases, in the former of which the first wife is so aggravated by her husband taking another spouse that she has assaulted him, while in the other a husband is brought to Court for tying up his second wife on suspicion of her having bewitched the first one, with a threat that he would kill her if the first one died. And a third husband finds himself heavily fined for being influenced by the predilections of his first wife. He had paid bride-wealth for a second: the first wife did not approve of the newcomer: her sister coming soon afterwards with a gift of beer, he kept her instead; she had already been promised in marriage, however, and he has to face an indignant betrothed as well as her father, in Court.

R. DE Z. HALL.